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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 13-24 and 03-123; FCC 19-11]

IP CTS Improvements and Program Management

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) expands the telecommunications relay service (TRS) User Registration Database (Database) that the Commission created for the video relay service (VRS) program to encompass Internet Protocol Captioned Telephone Service (IP CTS). Including IP CTS user registration information in the Database will help the program verify the identity of IP CTS users, audit and review IP CTS provider practices, substantiate provider compensation requests, and improve program management.

DATES: *Effective Date:* These rules are effective **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Compliance Date: Compliance will not be required for § 64.611(j)(2) and §§ 64.615(a)(3) and (a)(5) of the Commission's rules until after approval by the Office of Management and Budget (OMB). The Commission will publish a document in the *Federal Register* announcing that compliance date.

FOR FURTHER INFORMATION CONTACT: Michael Scott, Consumer and Governmental Affairs Bureau, at (202) 418-1264, or e-mail Michael.Scott@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, document FCC 19-11, adopted on February 14, 2019, released on February 15, 2019, in

CG Docket Nos. 03-123 and 13-24. The Commission previously sought comment on these issues in *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Difficulties*, published at 78 FR 54201, September 3, 2013 (*2013 IP CTS Reform FNPRM*). A Further Notice of Proposed Rulemaking (Further Notice) is contained in document FCC 19-11 and addresses additional issues concerning account identifiers, service for new users, and simplification of 911 call-handling for some forms of IP CTS. The Further Notice will be published elsewhere in the *Federal Register*. The full text of document FCC 19-11 will be available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS), and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY-A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov, or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

Congressional Review Act

The Commission sent a copy of document FCC 19-11 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Final Paperwork Reduction Act of 1995 Analysis

The Report and Order in document FCC 19-11 contains modified information collection requirements, which are not effective until approval is obtained from OMB. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public to comment on these information collection requirements as required by the Paperwork Reduction Act (PRA) of 1995, Pub. L. 104-13. The Commission will publish a separate document in the *Federal Register* announcing approval of the information collection requirements. Pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, 44 U.S.C. 3506(c)(4), the Commission previously sought comment on how the Commission might "further reduce the

information burden for small business concerns with fewer than 25 employees.” *2013 IP CTS Reform FNPRM*.

SYNOPSIS:

1. In 2013, the Commission directed the creation of a centralized system of user registration records, for initial application to VRS users and potential application to other forms of TRS. The core function of this Database is to enable the Commission to ensure that TRS is provided only to registered users whose eligibility has been established in accordance with program rules and whose identities have been verified based on uniform criteria. IP CTS, a form of TRS, allows individuals with hearing loss to both read captions and use their residual hearing to understand a telephone conversation.

2. The Commission amends its rules to require the integration of IP CTS into the TRS Database to better ensure accurate registration, verification, and validation of IP CTS users. By this action, the Commission takes further steps to ensure that TRS is made available “in the most efficient manner,” achieve consistency among Internet-based TRS programs, and manage waste, fraud, and abuse risks. Expanding the Database to include IP CTS is especially important in light of the ease and convenience of using this service—which can also facilitate its improper use—as well as the incentives and ability of providers to market this service to individuals who do not need it. These factors may be contributing to the exponential IP CTS growth in recent years and have the potential to cause future waste in the program. Database registration of IP CTS users will enable the administrator to conduct objective identity verification in accordance with uniform criteria, perform more effective auditing and review of IP CTS provider practices, and better substantiate the eligibility of IP CTS minutes submitted for compensation, *e.g.*, by matching provider-submitted call detail records with records of registered and verified IP CTS users. In addition, creating a central registry of IP CTS users will improve program management by enabling the Commission to compile and analyze aggregate data on the total number of IP CTS users; the number of IP CTS providers, devices, and phone numbers associated with each user;

the pace of turnover among registered users; and other important program statistics and trends that are necessary for the Commission's effective and efficient implementation of the program.

3. Database registration and verification of IP CTS users is a straightforward prophylactic measure that is needed to safeguard the TRS Fund, whether or not the Commission has discovered waste, fraud, and abuse within this particular TRS program. The Commission is not required to wait for a major outbreak of fraud or abuse, such as occurred in two other TRS programs, before taking precautionary steps to prevent such harm from occurring in this program. The Commission has the authority and obligation to identify and improve programs that may be susceptible to waste, fraud, and abuse.

4. The rules the Commission adopts for IP CTS user data submission and verification largely parallel those in place for VRS. Although the two services differ in some respects, those differences do not warrant a substantially different approach to data submission. Therefore, with one exception, the data that the Commission now requires IP CTS providers to submit to the Database when registering users is substantially the same data that the Commission requires for VRS providers. Specifically, the Commission requires submission of a user's full name; full residential address; telephone number; electronic serial number (ESN) of the user's IP CTS device, the user's log-in identification or email address, or another unique identifier for the IP CTS user; last four digits of the user's social security number or Tribal Identification number; date of birth; Registered Location (if applicable); IP CTS provider name; date of service initiation and (when applicable) termination; (for existing users only) the date on which the IP CTS user last placed an IP CTS call; and a digital copy of the user's self-certification of eligibility.

5. The Commission also applies to IP CTS the same data submission and verification procedures used for VRS. These procedures are designed to ensure that IP CTS is used only by individuals who have registered with a provider, provided all required information, self-certified their eligibility to use the service, and had their identities verified in accordance with uniform criteria. Specifically, when the Database is ready to accept IP CTS user data, the Commission or

CGB will release a public notice initiating a data submission period for uploading registration information on all current IP CTS users. By the end of the data submission period, IP CTS providers must have transmitted the required information to the Database, in a format prescribed by the Database administrator, for all IP CTS users in service as of the last day of the period. After the end of the period, an IP CTS provider will not be entitled to and shall not seek TRS Fund compensation for providing captioning service to any individual whose registration information has not been submitted to the Database. Further, an IP CTS provider shall not seek compensation for service to users who do not pass the Database identification verification check. However, if a provider submits the required information for an existing IP CTS user on or before the end of the data submission period, and verification by the Database has not been completed, the provider may request compensation for minutes of use incurred by such user after the deadline while verification is being completed, and the TRS Fund administrator will provide compensation for such minutes if the user is ultimately verified, including minutes of service that occur while an appeal of a user verification failure is pending.

6. For users who sign up for service after the end of the data submission period, similar procedures apply, except that providers must not register, or commence providing service to, such users until after the required registration data has been submitted *and* verified by the Database. The Commission expects that the administrator will coordinate with IP CTS providers, as it did with VRS providers, including conducting trials and tests of procedures for submitting and verifying user registration data. The Commission directs the Managing Director to oversee the integration of IP CTS into the Database and to determine when the Database is ready to accept the submission of IP CTS user data.

7. If an IP CTS provider learns that a registered user is no longer eligible to receive service or a user makes a request to cancel service, the Commission requires the IP CTS provider to promptly request removal of such user's registration from the Database. An IP CTS provider shall not seek TRS Fund compensation for captioning service to any individual whose registration

information has been removed from the Database, or for whom the provider obtains information that the individual is not eligible to use IP CTS.

8. *Data Privacy.* The Commission concludes that the same privacy safeguards that currently protect Database data on VRS users also will be sufficient to protect the privacy of IP CTS users. As is required of VRS providers, IP CTS providers must obtain users' prior consent to transmit to the Database the user information provided by the users to the providers, after notifying the users of the data to be submitted, the reason for disclosure, and the consequences of nondisclosure. The Commission also has incorporated privacy by design into its data collection, limiting the information collected from providers to what is necessary to identify and verify users, and destroying the parts of such information it does not need to maintain long term. For example, only the last four digits of registrants' Social Security numbers are collected, and these truncated numbers are destroyed upon verification. Further, the Database procedures strictly limit access to user registration data and include security safeguards to protect the proprietary and personal information in the database.

9. Further, as a federal information technology system, the Database is reviewed and evaluated annually to ensure compliance with Federal Information Security Modernization Act (FISMA) requirements. In addition to FISMA and Privacy Act requirements, as with other databases the Commission has created to manage its programs, this database must be operated in accordance with the National Institute of Standards and Technology (NIST) guidance for secure, encrypted methods for obtaining, transmitting, storing, and disposing of program beneficiary information and certified program information. The database also must have subscriber notification procedures in the event of a breach that are compliant with Department of Homeland Security and guidance by the U.S. OMB. For the above reasons, and because there is no record evidence demonstrating their insufficiency, the Commission concludes that these layered privacy safeguards will be effective in protecting the personal data of registered IP CTS users—including senior citizens, whose personal data is maintained by many federal agencies.

10. *Costs.* The Commission concludes that the costs of integrating IP CTS users into the Database will be limited, as discussed below, and that they are reasonable in light of the importance of ensuring that IP CTS is immune from the waste, fraud, and abuse that have plagued the TRS program in the past. First, the Database is already built and has been activated for VRS. Thus, the administrator of this database already has established and tested procedures for collecting, organizing, verifying, protecting, and retrieving consumer registration data. While the database will increase in size, the Commission expects that additional staffing and technology needs are likely to be incremental, rather than substantial, for the TRS Fund. In addition, having thoroughly prepared for the activation of the Database for VRS, the Database administrator is now well acquainted with the planning and preparation processes, including trials and tests of procedures for submitting and verifying user registration data, that necessarily precede the activation of the Database for a new service. The experience gained in populating the Database with VRS user information will enable the Commission and the Database administrator to work efficiently with IP CTS providers to integrate IP CTS user data into the database through the existing administration processes.

11. The Commission expects that the costs incurred by IP CTS providers will be limited as well. IP CTS providers already have been collecting the user registration data that must be populated into the Database. Therefore, the Commission believes that additional expenses incurred by providers will be incurred primarily in contacting users to obtain consent for the submission of user data that already has been collected, uploading the data, and addressing any verification issues regarding such data. Further, IP CTS providers will not be requested to begin submitting user information to the database until the Managing Director determines that these processes have been effectively adapted for use by the IP CTS program and that there has been sufficient advance coordination with IP CTS providers to enable full understanding of such processes.

12. The Commission anticipates that providers' compliance costs will be further limited because, in contrast to VRS, it appears that relatively few IP CTS users register with multiple providers. Moreover, the absence of a per-call validation query requirement for IP CTS will substantially reduce providers' compliance costs. Finally, IP CTS providers will benefit from the administrator's previous work in the VRS context to establish protocols, procedures, and safeguards that are now in place.

13. For all these reasons, the Commission concludes that IP CTS providers' one-time Database implementation costs will not be materially greater than those incurred by VRS providers. For IP CTS, the Commission estimates that the total cost of Database implementation over a three-year period is \$16-21 million. These Database implementation costs represent 0.6-0.8% of the \$2.676 billion total expenditures on IP CTS in a three-year period. The rules adopted here provide needed accountability, given the marketing incentives inherent in the service. It is reasonable to conclude that these implementation costs are justified by the benefits of adding IP CTS to the Database, in light of the history of waste, fraud, and abuse in the TRS program generally, and the fact that IP CTS is the most heavily used, fastest growing, and largest TRS program.

14. The Commission will allow IP CTS providers to seek recovery of costs associated with implementing the Database during the interim IP CTS compensation period, in accordance with the Commission's exogenous cost recovery guidelines for VRS. Under these guidelines, the general application of which to IP CTS is currently under consideration by the Commission, well-documented provider costs resulting from new TRS requirements are recoverable if they (1) belong to recoverable cost categories, (2) are new costs not factored into the rates for the 2018-19 and 2019-20 TRS Fund years, and (3) if unrecovered may cause a provider's current allowable-expenses-plus-operating margin to exceed its IP CTS revenues. Database implementation costs, especially when incurred by smaller providers, may qualify for reimbursement under these guidelines, as they were not considered when the interim IP CTS compensation rates were

determined. Although the Commission has yet to determine whether the VRS exogenous cost recovery guidelines should be generally applicable to IP CTS, the Commission will allow Database cost recovery in accordance with these guidelines during the interim compensation period in order to ensure that costs imposed by these new regulatory requirements are sufficiently addressed in provider compensation. This interim cost recovery measure will remain in effect until June 30, 2020, the end of the interim compensation period, or until a new IP CTS compensation rate becomes effective, whichever is earlier.

15. *Differences in the Database Rules Applicable to IP CTS and VRS.* The Commission makes the following changes in the Database rules to address issues that are unique to IP CTS and to apply lessons learned in activating the Database for VRS. First, because the record indicates that telephone numbers alone do not uniquely identify IP CTS users, the Commission amends its rules to provide that for IP CTS, the “necessary information for each registered user” submitted to the Database shall include a unique account identifier, such as the electronic serial number of any device provided to the user, the user’s log-in ID, or an email address.

16. Second, for registered users of IP CTS who are minors, the Commission amends its rules to clarify that the self-certification of eligibility must be signed on behalf of the minor by the minor user’s parent or legal guardian, and, in addition to submitting all the registration data required for other users, the provider must include the name and (if different) address of that parent or legal guardian.

17. Third, for IP CTS, the Commission will allow a one-year data submission period. The Commission makes this change because the IP CTS user population appears to be larger than the number of VRS users and has a disproportionate number of senior citizens, many of whom are more likely to require assistance from family members or others in providing written consent for the submission of information to the Database, and in providing supplemental information to the extent it is needed to complete verification. A one-year window will provide an ample period of time within which to complete the data submission process, and the Commission does not

anticipate extending it. In the event that a provider is experiencing unusual difficulty in collecting user consents or otherwise preparing to comply, and finds that it needs to seek a waiver of the deadline, the Commission expects that the provider will make such a request, with a detailed showing and justification, no later than 120 days before the end of the data submission period.

18. Fourth, the Commission does not apply to IP CTS the per-call validation requirement of § 64.615(a) of the rules. Unlike in VRS, there is no dial-around calling in IP CTS, and so there is less need to have a provider query a central database in order to validate an IP CTS call made by a user who is not registered with that provider. Further, because IP CTS providers usually do not assign telephone numbers to registered users and often do not control the connection of calls, a requirement to query the Database for each call could pose practical difficulties for IP CTS that are not present for VRS.

19. Under the rules the Commission adopts in this Report and Order, an IP CTS provider is not entitled to and shall not seek compensation for service to, users whose registration data has not been submitted to the Database, has not passed the Database identification verification check, or has been removed from the Database. Thus, as a matter of maintaining compliance with these requirements, it will be in the interest of an IP CTS provider, before requesting compensation for any call, to check its own records and take any other steps it deems necessary to confirm that the user's registration data was submitted to and entered in (and not removed from) the Database prior to the call. The Commission does not find that there is a need to dictate the specific timing or procedure by which an IP CTS provider confirms compliance with these rules. Accordingly, IP CTS providers will not be required to send a specific call validation query to the Database or the TRS Numbering Directory at the beginning of each call.

20. Fifth, the Commission adopts an exception to the registration and verification requirements, to allow IP CTS providers to be compensated for captioning calls for users whose data has not been entered in the Database when such calls are made to or from temporary, public

devices set up in emergency shelters. The Commission takes this step to ensure that users with hearing loss will continue to have access to telephone communications devices during and in the aftermath of natural disasters and other emergencies. However, IP CTS providers must register such devices in the Database before commencing service to such devices, by providing all information reasonably requested by the Database administrator, including the telephone number and location of the device. When service for such a device is initiated and terminated, the IP CTS provider must transmit the dates of activation and termination. Before requesting Fund compensation for calls involving such a device, the provider must check its own records to validate that the device was registered with the Database prior to the call.

Final Regulatory Flexibility Analysis

21. As required by the Regulatory Flexibility Act of 1980 as amended (RFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the *2013 IP CTS Reform FNPRM*. The Commission sought written public comment on the proposals in the *2013 IP CTS Reform FNPRM*, including comment on the IRFA. No comments were received in response to the IRFA.

Need For, and Objectives of, the Rules

22. Document FCC 19-11 adopts rule changes to facilitate the Commission's efforts to reduce waste, fraud, and abuse and improve its ability to efficiently manage the IP CTS program by requiring IP CTS providers to (1) submit IP CTS user registration information to the TRS Database so that the Database administrator can verify IP CTS users; and (2) obtain and keep affirmative acknowledgement by every registered IP CTS user of the user's consent to the IP CTS provider to transmit such registration information to the Database.

23. Document FCC 19-11 also adopts rule changes providing that TRS Fund compensation may be paid only for IP CTS provided to users whose registration data has been submitted to and verified by the Database administrator; and that, when users are no longer eligible for or request cancellation of service, the IP CTS provider must remove the user's information from its database

and notify the Database administrator of such removal.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

24. No comments were filed in response to the IRFA.

Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

25. The Chief Counsel for Advocacy of the Small Business Administration (SBA) did not file any comments in response to the proposed rules in this proceeding.

Small Entities Impacted

26. The rules adopted in Document FCC 19-11 will affect obligations of IP CTS providers. These services can be included within the broad economic category of All Other Telecommunications.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

27. The rules on submitting user registration data to the Database will require IP CTS providers to submit information that they are currently required to collect from IP CTS users. IP CTS providers will also be required to obtain and keep affirmative acknowledgement by every registered IP CTS user of the user's consent to the IP CTS provider to transmit such registration information to the Database. The Commission has primarily aligned these reporting and recordkeeping requirements with similar requirements currently applicable to VRS providers. However, the Commission makes one addition to the Database registration requirements to require that unique account identifiers, such as the electronic serial numbers of user devices, users' log-in identifications, or email addresses, be included in the user registration information submitted to the Database administrator. Also, before commencing service to temporary, public IP CTS devices set up in emergency shelters, IP CTS providers must provide all information reasonably requested by the Database administrator, including the telephone number and location of the device, and an indication that the device is located in a public emergency shelter.

28. In addition, IP CTS providers are required to keep their registration databases current and notify the Database administrator of any users removed from their databases.

Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

29. The rules requiring IP CTS providers to submit registration data to the Database will have only a minimal effect on small entities because the required data is already maintained by the providers. The increased burdens of obtaining consent from IP CTS users to submit the data to the Database, the retention of such information, and the submission process itself are minor as compared to the benefit of having the Database administrator verify the IP CTS users and relieving IP CTS providers of that obligation. Moreover, the order permits providers to seek reimbursement from the Interstate TRS Fund for exogenous costs associated with the submission of registration data to the Database until such time as the Commission adopts rates that take into consideration the costs associated with such submissions. The rules also require providers to notify the Database administrator of any users removed from their databases. These requirements are similar to the requirements placed on VRS providers.

30. Compared to the initial proposal, which also would have required IP CTS providers to validate each call by querying the Database, these requirements are more narrowly tailored to help the Commission identify and evaluate risks, monitor compliance with program rules, and minimize waste, fraud, and abuse in the IP CTS program and will not be burdensome because providers are already required to keep their databases current.

ORDERING CLAUSES

Pursuant to sections 201 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 201, 225, document FCC 19-11 is ADOPTED, and Part 64 of Title 47 is amended.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications, Telecommunications relay services.

FEDERAL COMMUNICATIONS COMMISSION.

Katura Jackson,
Federal Register Liaison Officer
Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64 - MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 is revised to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 228, 251(a), 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, 1401-1473, unless otherwise noted.

2. Amend § 64.601 by revising paragraphs (a)(30) and (a)(31) to read as follows:

§ 64.601 Definitions and provisions of general applicability.

(a) * * *

(30) *Registered Internet-based TRS user.* An individual who has registered with a VRS, IP Relay, or IP CTS provider as described in § 64.611.

(31) *Registered Location.* The most recent information obtained by a VRS, IP Relay, or IP CTS provider that identifies the physical location of an end user.

* * * * *

3. Amend § 64.604 by removing and reserving paragraph (c)(9) to read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(c) * * *

(9) [Reserved]

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4. Amend § 64.611 by revising paragraph (a)(4), adding and reserving paragraphs (h) and (i), and adding paragraphs (j) and (k) to read as follows:

§ 64.611 Internet-based TRS registration.

(a) * * *

(4) *TRS User Registration Database Information Requirements for VRS.* Each VRS provider shall collect and transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each of its new and existing registered Internet-based TRS users: full name; address; ten-digit telephone number assigned in the TRS numbering directory; last four digits of the social security number or Tribal Identification number, if the registered Internet-based TRS user is a member of a Tribal nation and does not have a social security number; date of birth; Registered Location; VRS provider name and dates of service initiation and termination; a digital copy of the user's self-certification of eligibility for VRS and the date obtained by the provider; the date on which the user's identification was verified; and (for existing users only) the date on which the registered Internet-based TRS user last placed a point-to-point or relay call.

* * * * *

(h) [Reserved]

(i) [Reserved]

(j)(1) *IP CTS Registration and Certification Requirements.*

(i) IP CTS providers must first obtain the following registration information from each consumer prior to requesting compensation from the TRS Fund for service provided to the consumer: The consumer's full name, date of birth, last four digits of the consumer's social security number, full residential address, and telephone number.

(ii) [Reserved]

(iii) [Reserved]

(iv) *Self-certification prior to August 28, 2014.* IP CTS providers, in order to be eligible to receive compensation from the TRS Fund for providing IP CTS, also must first obtain a written certification from the consumer, and if obtained prior to August 28, 2014, such written certification shall attest that the consumer needs IP CTS to communicate in a manner that is

functionally equivalent to the ability of a hearing individual to communicate using voice communication services. The certification must include the consumer's certification that:

(A) The consumer has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users;

(B) The consumer understands that the captioning service is provided by a live communications assistant; and

(C) The consumer understands that the cost of IP CTS is funded by the TRS Fund.

(v) *Self-certification on or after August 28, 2014.* IP CTS providers must also first obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, a written certification from the consumer, and if obtained on or after August 28, 2014, such certification shall state that:

(A) The consumer has a hearing loss that necessitates use of captioned telephone service;

(B) The consumer understands that the captioning on captioned telephone service is provided by a live communications assistant who listens to the other party on the line and provides the text on the captioned phone;

(C) The consumer understands that the cost of captioning each Internet protocol captioned telephone call is funded through a federal program; and

(D) The consumer will not permit, to the best of the consumer's ability, persons who have not registered to use Internet protocol captioned telephone service to make captioned telephone calls on the consumer's registered IP captioned telephone service or device.

(vi) The certification required by paragraphs (j)(1)(iv) and (v) of this section must be made on a form separate from any other agreement or form, and must include a separate consumer signature specific to the certification. Beginning on August 28, 2014, such certification shall be made under penalty of perjury. For purposes of this rule, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., as an electronic sound, symbol, or process, attached to or logically associated with a contract or other

record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(vii) *Third-party certification prior to August 28, 2014.* Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than \$75 and the consumer was registered in accordance with the requirements of paragraph (j)(1) of this section prior to August 28, 2014, the IP CTS provider must also obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, written certification provided and signed by an independent third-party professional, except as provided in paragraph (j)(1)(xi) of this section.

(viii) To comply with paragraph (j)(1)(vii) of this section, the independent professional providing certification must:

- (A) Be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and may include, but are not limited to, community-based social service providers, hearing related professionals, vocational rehabilitation counselors, occupational therapists, social workers, educators, audiologists, speech pathologists, hearing instrument specialists, and doctors, nurses and other medical or health professionals;
- (B) Provide his or her name, title, and contact information, including address, telephone number, and e-mail address; and
- (C) Certify in writing that the IP CTS user is an individual with hearing loss who needs IP CTS to communicate in a manner that is functionally equivalent to telephone service experienced by individuals without hearing disabilities.

(ix) *Third-party certification on or after August 28, 2014.* Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than \$75, the consumer (in cases where the equipment was obtained directly from the IP CTS provider) has not subsequently paid \$75 to the IP CTS provider for the equipment prior to the date the consumer is registered to use IP CTS, and the consumer is registered in accordance with

the requirements of paragraph (j)(1) of this section on or after August 28, 2014, the IP CTS provider must also, prior to requesting compensation from the TRS Fund for service to the consumer, obtain from each consumer written certification provided and signed by an independent third-party professional, except as provided in paragraph (j)(1)(xi) of this section.

(x) To comply with paragraph (j)(1)(ix) of this section, the independent third-party professional providing certification must:

(A) Be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and must be either a physician, audiologist, or other hearing related professional. Such professional shall not have been referred to the IP CTS user, either directly or indirectly, by any provider of TRS or any officer, director, partner, employee, agent, subcontractor, or sponsoring organization or entity (collectively "affiliate") of any TRS provider. Nor shall the third party professional making such certification have any business, family or social relationship with the TRS provider or any affiliate of the TRS provider from which the consumer is receiving or will receive service.

(B) Provide his or her name, title, and contact information, including address, telephone number, and e-mail address.

(C) Certify in writing, under penalty of perjury, that the IP CTS user is an individual with hearing loss that necessitates use of captioned telephone service and that the third party professional understands that the captioning on captioned telephone service is provided by a live communications assistant and is funded through a federal program.

(xi) In instances where the consumer has obtained IP CTS equipment from a local, state, or federal governmental program, the consumer may present documentation to the IP CTS provider demonstrating that the equipment was obtained through one of these programs, in lieu of providing an independent, third-party certification under paragraphs (j)(1)(vii) and (ix) of this section.

(xii) Each IP CTS provider shall maintain records of any registration and certification information for a period of at least five years after the consumer ceases to obtain service from the provider and shall maintain the confidentiality of such registration and certification information, and may not disclose such registration and certification information or the content of such registration and certification information except as required by law or regulation.

(xiii) [Reserved]

(2) *TRS User Registration Database Information for IP CTS.* (i) Each IP CTS Provider shall collect and transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each of its new and existing registered IP CTS users:

(A) Full name;

(B) Full residential address;

(C) Telephone number;

(D) A unique identifier such as the electronic serial number (ESN) of the user's IP CTS device, the user's log-in identification, or the user's email address;

(E) The last four digits of the user's social security number or Tribal Identification number (or alternative documentation, if such documentation is permitted by and has been collected pursuant to *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 30 FCC Rcd 1093 (CGB 2015));

(F) Date of birth;

(G) Registered Location (if applicable);

(H) IP CTS provider name;

(I) Date of service initiation and (when applicable) termination;

(J) A digital copy of the user's self-certification of eligibility for IP CTS and the date obtained by the provider; and

- (K) For existing users only the date on which the IP CTS user last placed an IP CTS call.
- (ii) Each IP CTS provider shall obtain, from each new and existing registered IP CTS user, consent to transmit the registered IP CTS user's information to the TRS User Registration Database. Prior to obtaining such consent, the IP CTS provider shall describe to the registered IP CTS user, using clear, easily understood language, the specific information obtained by the IP CTS provider from the user that is to be transmitted, and inform the user that the information is being transmitted to the TRS User Registration Database to ensure proper administration of the TRS program, and that failure to provide consent will result in the registered IP CTS user being denied service. IP CTS providers shall keep a record of affirmative acknowledgment of such consent by every registered IP CTS user.
- (iii) *Registration of Emergency Shelter Devices.* An IP CTS provider may seek and receive TRS Fund compensation for the provision of captioning service to users of a temporary, public IP CTS device set up in an emergency shelter, provided that, before commencing service to such a device, the IP CTS provider collects, maintains in its registration records, and submits to the TRS User Registration Database all information reasonably requested by the administrator, including the telephone number and location of the device. IP CTS providers shall remove the device's registration information from the Database when service for such a device is terminated.
- (iv) By the date of initiation of service to an IP CTS user or device, or one year after notice from the Commission that the TRS User Registration Database is ready to accept such information, whichever is later, IP CTS providers shall submit to the TRS User Registration Database the registration information required by paragraph (j)(2)(i) or (iii) of this section. Calls from or to registered IP CTS users or devices whose registration information has not been populated in the TRS User Registration Database by the applicable date shall not be compensable, and an IP CTS provider shall not seek TRS Fund compensation for such calls.
- (v) When registering a user who is transferring service from another IP CTS provider, IP CTS providers shall obtain and submit a digital copy of a user's self-certification of eligibility if a

query of the TRS User Registration Database shows a properly executed certification has not been filed.

(3) An IP CTS provider shall not seek TRS Fund compensation for providing captioning service to any individual or device if the registration information for such individual or device has been removed from the TRS User Registration Database, or if the provider obtains information that the individual or device is not eligible to receive IP CTS.

(k) *Compliance date.* Paragraph (j)(2) of this section contains new or modified information-collection and recordkeeping requirements adopted in FCC 19-11. Compliance with these information-collection and recordkeeping requirements will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the *Federal Register* announcing that compliance date and revising this paragraph accordingly.

5. Amend § 64.615 by revising paragraphs (a)(3), (a)(4), and (a)(5) and adding paragraph (c) to read as follows:

§ 64.615 TRS User Registration Database and administrator.

(a) * * *

(3) *Data integrity.* (i) Each VRS and IP CTS provider shall request that the administrator of the TRS User Registration Database remove from the TRS User Registration Database user information for any registered user or hearing point-to-point user:

(A) Who informs its default VRS provider or its IP CTS provider that it no longer wants use of a ten-digit number for TRS or (in the case of a hearing point-to-point video user) for point-to-point video service; or

(B) For whom the provider obtains information that the user is not eligible to use the service.

(ii) The administrator of the TRS User Registration Database shall remove the data of:

(A) Any VRS user that has neither placed nor received a VRS or point-to-point call in a one-year period; and

(B) Any user for which a VRS or IP CTS provider makes a request under paragraph (a)(3)(i) of this section.

(4) A VRS or IP CTS provider may query the TRS User Registration Database only for the purposes provided in this subpart, and to determine whether information with respect to its registered users already in the database is correct and complete.

(5) *User verification.* (i) The TRS User Registration Database shall have the capability of performing an identification verification check when a VRS provider, IP CTS provider, or other party submits a query to the database about an existing or potential user.

(ii) VRS and IP CTS providers shall not register individuals who do not pass the identification verification check conducted through the TRS User Registration Database.

(iii) VRS providers shall not seek compensation for calls placed by individuals that do not pass the identification verification check conducted through the TRS User Registration Database.

(iv) IP CTS providers shall not seek compensation for calls placed to or from individuals that do not pass the identification verification check conducted through the TRS User Registration Database.

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(c) *Compliance date.* Paragraphs (a)(3) and (a)(5) of this section contain new or modified information-collection and recordkeeping requirements adopted in FCC 19-11. Compliance with these information-collection and recordkeeping requirements will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the *Federal Register* announcing that compliance date and revising this paragraph accordingly.

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